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## BOYEN'S MILITARY LAW<sup>1</sup>

ON April 18 I wrote the chairman of the programme committee that if it was the plan of this meeting to emphasize events of a century ago, I could think of nothing in 1814 of greater importance than Boyen's Law, establishing universal military service in Prussia. It was an historical judgment without trace of prophetic insight. The terrific events that have intervened, placing us not in memory alone, but in actuality also, back in the world-war conditions of 1814, have not modified that judgment, though they prevented the plans I then had for gathering material,<sup>2</sup> and made some of the

<sup>1</sup> A paper read in the conference on Napoleonic Europe at the meeting of the American Historical Association in Chicago, December 29, 1914.

<sup>2</sup> The bibliography of this subject treated against the background of military development in Prussia would be practically a bibliography of the history of Brandenburg-Prussia. The public activity in connection with the centennial of the era of reform and the Wars of Liberation makes the literature of even that brief period too considerable for inclusive reference. The following limited list to which, with other titles, specific reference is made on occasion, gives the essential material aside from histories of Brandenburg-Prussia and of the Prussian army. On the periodization of army organization and the Prussian army between 1640 and 1740 cf. Schmoller, *Umriss und Untersuchungen zur Verfassungs-, Verwaltungs- und Wirtschaftsgeschichte*, etc. (Leipzig, 1898), pp. 247-288 (also in *Deutsche Rundschau*, 1877, pp. 248-273). On the Great Elector's army from the same point of view as Schmoller, cf. von Schroetter, *Die Brandenburgisch-Preussische Heeresverfassung unter dem Grossen Kurfürsten* (Leipzig, 1892, in Schmoller's *Staats- und Sozialwissenschaftliche Forschungen*). On Frederick I. and the army, see von Schroetter in *Forschungen zur Brandenburgischen und Preussischen Geschichte*, XXIII. 403-467, and Hintze, *Historische und Politische Aufsätze*, vol. I. (Berlin, Deutsche Bucherei, 1908), and his essay on the Hohenzollerns and the nobility in *Historische Zeitschrift*, CXII. 494-524. On Frederick William I., cf. Lehmann in *Historische Zeitschrift*, LXVII. 254-289, and Hintze, *op. cit.* On Frederick the Great and the army cf. Koser, *König Friedrich der Grosse, passim*, esp. I. 538 ff., and von der Goltz, *Rosbach und Jena* (Berlin, 1883). On the subject of the paper and the military reforms of Scharnhorst it is sufficient to name the works without which it could not have been written. Two stand out, Lehmann, *Scharnhorst* (Leipzig, 1886, 1887, 2 vols.) and Meinecke's brilliant two volumes on *Das Leben des Generalfeldmarschalls Hermann von Boyen* (Stuttgart, 1895, 1899). To these should be added von Boyen's *Erinnerungen* (ed. Nippold, Leipzig, 1889-1890, 3 vols.), by all odds the best of the memoir literature of the reform era in Prussia. Unfortunately they break off just before 1814. Historical biographies such as those of Gneisenau by Pertz-Delbrück, Grolmann by Conrady, Stein by Lehmann need only to be mentioned. Cavaignac's *La Formation de la Prusse Contemporaine* (Paris, 1891, 1898, 2 vols.) is an excellent synthetic treatment of the years 1806-1813, but not to be compared in insight or suggestiveness to F. Meinecke's little volume *Das Zeitalter der Deutschen Erhebung, 1795-1815* (Bielefeld, 1906). Further titles relating to the period and the subject of military history may be found in Dahlmann-Waitz (eighth ed.), no. 2408 *et seq.* and no.

views I held essential to its proper understanding into the common-places of current misinformation. Nevertheless, I have not changed the subject nor the view expressed last April of its importance.

The subject of military service takes us at once into the heart of the history of Brandenburg-Prussia. As one reads it, the rustle of its pages sounds like the rattle of swords in their scabbards. Its seemingly tortuous course has one straight red line that leads from battle-field to battle-field. Its paragraph headings are the names of wars. Its heroes are embattled soldiers and sovereigns. Its greatest statesman thought in terms of regiments and wrote his politics with blood and iron. Its epochs are but periods of military greatness and decline. In its history, Ascanians give way to Hohenzollerns, crusading Teutonic Knights pass from the stage, but the essential interest in the history of these two German military frontier colonies—*islands in a Slavic ocean*—remains the same, whether separate or united. Situated in the vast sand-strewn plains of North Germany, beyond the Elbe, Brandenburg-Prussia, with no frontiers but the movable ones of marching armies, with no neighbors who were not jealous enemies, was characterized by Mirabeau a century before Treitschke and his school, as a nation whose "chief industry is war", and the motto which best epitomizes the lessons of its history is the war-wise phrase of Frederick the Great, *Toujours en vedette*. What I have here suggested in a paragraph finds its clearest expression not in the works of Prussian historians, but in a single essay by a Frenchman<sup>3</sup> who has revealed to Prussians the foundations of their nation's military greatness as Mahan taught the significance of English naval history to Englishmen.

Bound up as the development of the army was with the development of the state in Brandenburg-Prussia, the organization and composition of this army were none the less influenced by the historical changes taking place everywhere in military matters since the Middle Ages. In general four stages may be distinguished. There is first the feudal army whose obligations, in form at least, still obtained in the eighteenth century and whose spirit was not wholly broken in the nineteenth. Then came what may be called the guild army, the professional warriors who recruited their apprentices

12292 et seq. Two recent works to which I have not had access are Kalkoff, *Die Vorgeschichte der Allgemeinen Wehrpflicht in Preussen* (Breslau, 1913) and von der Goltz, *Kriegsgeschichte Deutschlands im Neunzehnten Jahrhundert* (Berlin, 1914).

<sup>3</sup> Lavissee, *Études sur l'Histoire de la Prusse* (fourth ed., Paris, 1896), cf. esp. pp. 65 ff. Sorel, *L'Europe et la Révolution Française*, I. 463 ff., follows Lavissee.

where they would and, through their masters the company and regimental officers, contracted their services where they could. From Marignano in 1516 to Breitenstein in 1631 may be said to mark roughly the period of what Bernard Shaw would revive, war by labor union armies. Over against the horrors of the Thirty Years' War conducted by brutalized, denationalized professional soldiers, the student of military history may set two indications of a new epoch—the sectarian nationalism of Gustavus Adolphus's army and the dynastic nationalism of the small standing army preserved at every cost by Frederick William the Great Elector.

What the Great Elector seized upon was the central idea, that the economic and political independence and integrity of his state depended upon an army.<sup>4</sup> That army could not with his limited resources be wholly a contract army, nor was it politically sound to have an army which might shift its allegiance at any time—which indeed, like modern domestic servants, had no allegiance and no permanent connection with the state. What he secured was permanence of service—fixing the army in its attachment to one land and in its subordination to one commander, the Elector himself. They might be and were recruited, as in the preceding century, by force and fraud from all lands. The native element predominated under the Great Elector *from necessity* as the exhaustion of neighboring lands made them poor recruiting grounds, except among the most degraded classes, but their colonels at least, he appointed and assigned to their regiments, and the soldiers, over and above the terms of their contract with the recruiting officer, owed obedience to the monarch. He alone henceforth, and not cities and estates, was to enlist and pay troops. To pay these troops and maintain them as the instruments of his sovereign will, he must subordinate provincial estates, break up local and municipal autonomy, control and reshape the fiscal system, devise an administrative system and train a bureaucracy, which like the army read its articles of war in the decreed will of the sovereign. The military necessities of the Great Elector's system, as in all the past of the state of Brandenburg-Prussia, put their stamp upon everything else and covered all readjustments, however violent, with the mantle of victory. The battle of Warsaw in 1656 and more distinctly the triumph at Fehrbellin in 1675 justified, as only battles can, the new army and its creator.

With the introduction of the element of the permanent standing army by the Great Elector we pass into the third period in military history since the early Middle Ages, that in which the army has been

<sup>4</sup> Schmoller, *Umrisse und Untersuchungen*, pp. 261 ff.

secularized. It becomes now the property and instrument of the state, in the sense in which the first three Hohenzollern kings and the enlightened despotism of the eighteenth century conceived the state. Its supreme development is the work of Frederick William I., between 1713 and 1740—its supreme test and justification, the work of Frederick II. Nor should the student of military development pass over the years 1688–1713,<sup>5</sup> years in which the great wars of Louis XIV. so overstrained the old methods of recruiting that the first idea of a broader basis for military service is recognized by Louvois in France, by Frederick I. of Prussia, and by the English, who in the Bill of Rights had attempted to put behind them the idea of a standing army.

The central figure in the work of secularizing the army is Frederick William I. He swept away the last remnants of feudal obligations and stamped out ruthlessly the slight beginnings of a militia system. Nothing but the professional soldier wearing the king's uniform and drilled even under his own command satisfied him. Before the necessities of such a state corporealized in sovereign and army the provincial estates faded to shadows. Army and fiscal administration became but two sides of the shield. Yet the "canton system", limited service, and the first proclamation of the idea of universal military service—epoch-making as they were—founded and developed under Frederick William I. and his son, not a national army, but a magnificent dynastic political instrument whose reflected glories kindled once for all a pride of Prussian citizenship from the Memel to the Rhine. But it was a citizenship without common rights—a service based upon class divisions. The noble had come to have almost exclusive claim upon the officers' positions in the army and the high places in diplomacy. He had been gradually forced into the king's livery<sup>6</sup> and now his reward was social and economic and political privilege on every hand. His preservation as a class was carefully guarded. In the central and eastern part of the kingdom he ruled as a sovereign over the servile subjects on his domains. They in turn were protected and preserved as a class inasmuch as the burden of filling the ranks of the army to supplement foreign enlistment fell upon them alone. The cities were walled off from the land by the economic and fiscal system and by almost complete exemption from enlistment, in return for bearing the burdens of a taxation system designed chiefly to meet military expenditures. The army, two-thirds of which might be recruited from abroad, from

<sup>5</sup> Von Schroetter in *Forschungen zur Brandenburgischen und Preussischen Geschichte*, XXIII. 403–467, also pp. 82 ff.

<sup>6</sup> Cf. Hintze in *Historische Zeitschrift*, CXII. 494–524.

deserters, and from prisoners of war, was held in line by a harsh and brutalizing discipline. It was indeed "the proletariat of the eighteenth century". Its relation to the national life is reflected in Frederick's boast that with it he could carry on a war while Prussian merchant and manufacturer went unknowing and undisturbed about his business. The fervor of such an army for the cause in which it was engaged may be judged by the careful regulations against marching it through a wood or camping near one in order to avoid opportunities for desertion.

The twenty years from the death of Frederick the Great to the battle of Jena have never enjoyed the attention of the historians of Prussia.<sup>7</sup> They probably never will. Yet within the decaying framework of the old was maturing the greatest product of a passing age, the seeds of a new order. Stein in Westphalia and Hardenberg in Franconia were developing as did Turgot in Limousin the principles of a better government and the administrative initiative that could secure it. Behind his desk as a lecturer in the military school, Scharnhorst was training a new school of Prussian militarists. In the ranks of the army, men like Gneisenau, Boyen, and Grolmann were restlessly waiting an opportunity to make the Frederickian army into an organization that would embody the best of the old and something of the new. So many are the voices that advocated change and readjustment that a later age might almost see in the feeble efforts of those two decades a promise of reform without the necessity of a national disaster.<sup>8</sup> It is a misreading of history. Nothing short of Jena and the shameful days that followed the collapse of the Frederickian military system could have chastened the spirit of class and provincial interest in the old Prussia or wrung from the hesitating Frederick William III. decisions that voiced the Calvinism of Kant's categorical imperative. The new religion of the state preached by the reform party was not that of the eighteenth-century enlightened despots, but the central idea of the Königsberg philosopher, the harmony of humanity in the service of the nation. What the reformers demanded was for Prussia a revaluation of values profounder than any conceived by Nietzsche for the nineteenth century. Nowhere was the fundamental idea more clearly stated than by two members of the military reorganization committee:

<sup>7</sup> Philippsohn, *Geschichte des Preussischen Staatswesens* (Leipzig, 1880, 1882) stops at 1797 and the best account is now to be found in Heigel, *Deutsche Geschichte vom Tode Friedrichs des Grossen bis zur Auflösung des Alten Reichs* (Stuttgart, 1899-1911).

<sup>8</sup> O. Hintze, "Preussische Reformbestrebungen vor 1806" in *Historische Zeitschrift*, vol. LXXVI. Also in his *Historische und Politische Aufsätze*, vol. III. Hintze does not fall into the error pointed out above.

If it were possible after a series of privations, after boundless sufferings, to raise ourselves from ruin, who would not sacrifice everything in order to plant the seeds of a new fruit? Who would not gladly die if he might hope that they would spring up with new power and new life? But in only one way is this possible. The nation must be imbued with self-reliance, it must have an opportunity to know itself and to stand by and for itself. Then and then only will it have self-respect and inspire respect in others. To work toward this end is all that we can do. To destroy the old forms, to burst the bonds of prejudice, to bring the new birth, cherish it and see that nothing fetters or hinders its growth—more than this does not lie within the limits of our powers.

These are the words of Scharnhorst, the Hanoverian, after Tilsit. Gneisenau, the Saxon, voices the same sentiment in phrases that sound a note not heard from the officers of the great Frederick:

One cause in particular has raised France to this pitch of greatness; the revolution has awakened all powers and given each power a suitable field of activity. What infinite possibilities sleep in the womb of the nation undeveloped and unused! In the breast of thousands and thousands of men dwells a mighty genius whose soaring pinions are fettered by his surroundings. Why do not the reigning dynasties (*Höfe*) adopt the surest and simple means of opening a career to genius, of encouraging talents and virtues wherever they may be found in whatever class or rank? Why do they not adopt this means to increase their strength a thousandfold and open to the ordinary citizen the gates of triumph through which the noble alone may now pass? The new age needs more than old names, old titles and old parchments—it needs new deeds and fresh power! . . .<sup>9</sup>

Prepared by its past, compelled by the necessities of its present, and impressed by the lessons of the success of the revolutionary movements, Prussia was ready to enter upon the fourth stage in the composition and development of its army—the establishment of a national army.

In the era of Prussian regeneration between 1806 and 1813 nothing is more important for the history of the nineteenth century than the work of the military commission presided over by Scharnhorst. For him whom many a contemporary called a pedant in uniform the German historians have reserved the predicate of great. Without the authority of an all-powerful minister of war, without the support of a strong sovereign, in a state whose resources and territory were but a fragment of its former strength, amid the opposition of the old order to a theorist, a foreigner, and a radical, under the eyes of a suspicious and watchful enemy, Scharnhorst carried through the great task of rebuilding the Prussian monarchy and state upon the military foundations of the past; foundations, which he widened and deepened so that they were to be no longer dynastic

<sup>9</sup> Quoted by Lehmann, *Scharnhorst*, II. 15-16.

and feudal, but national and liberal. "Faire une armée c'est presque faire une nation."

The work of Scharnhorst, supported by all the vigor of Stein and assisted by Gneisenau and Grolmann and later by Boyen and Götzen, is familiar to students of Prussian history, but its main features and leading ideas may, indeed must, be recalled here, for Boyen's military law was but the completion of Scharnhorst's work. The singular importance and the soundness of this work are perhaps attested by no other thing so much as its continuation after Scharnhorst was gone.

Among the principal fields of activity on the part of the commission on reorganization appointed on July 27, 1807, there was first the task of punishing those officers who in the field or in fortresses had failed in their duty in 1806. Of the 143 generals in service in 1806 only two had commands in 1813.

Then came the more serious work of reconstruction. The possibility of attaining the rank of officer was opened to all classes having the necessary talent or preparation. The schools for officers were renewed and increased in number. Salaries were to be higher and chances for making money out of the management of the commissariat were cut off.

The common soldier was to be a citizen and treated humanely. Enlistment of foreigners was to cease. The principle of universal military service, written into the reports by Scharnhorst, could not be carried out then,<sup>10</sup> but exemptions which under the "canton system" had risen to include whole classes and areas were much reduced and the *Krümper* system enabled Prussia with an army limited to 42,000 to put 270,000 into the field in 1813.

The new type of officer and the new type of soldier permitted a revision of tactics and strategy in conformity with the practices developed by the revolutionary and Napoleonic armies.

It is not, however, with the details, but with the significance of the military aspect of the regeneration of Prussia that we are here concerned. Place measures of the military reorganization commission side by side with the edict of October 9, 1807, and the unity and the spirit of the age stand revealed. The work of Stein and Scharnhorst is one. They supplement and necessitate each other as parts of a great effort to liberalize and nationalize the Prussian state and army. Could the edict of Stein of October break down class barriers by enabling the nobles to enter business, by allowing the burgher class to buy noble lands, and yet leave an army in which

<sup>10</sup> Cf. especially efforts in 1809 to secure the king's approval. Lehmann in *Historische Zeitschrift*, LXI. 97-109.



the nobles alone had exclusive right to officers' positions? Could the feudal lord as an officer be forbidden to beat the peasantry when in the ranks as soldiers if he were in civil life on his estates still allowed to treat them as serfs subjected to degrading punishments? Could the territorial class element in military service and the restraints on entering trades under the "canton system" be maintained and the freedom of movement from country to city or into other "canton-free" areas and trades be permitted? Could the enlistment of foreigners be abolished and the whole burden of defense thrown on the nation with the short-term service of the *Krümper-system* without, at the same time, doing everything to increase the recruit's intelligence and sense of oneness with the interests of the state he served? If the standing army was to be maintained and the professional military spirit in its best sense preserved in a land unfavored by nature, must not the national resources and the wealth-producing classes be freed from the hampering restrictions and class prejudices of a feudalistic state?<sup>11</sup> The answer is evident in view of Prussia's past history. The army could not be remade without remaking the social and political structure upon which the old military régime was based. Citizenship in a national army could not abide side by side with serfdom and class privilege in civil life. If the prophet by the waters of Chebar whose spirit Fichte invoked was to bring together the dead bones of the Prussian state he must breathe into the whole framework the breath of a new life.

The full evidence of the existence of the new spirit came in the Wars of Liberation, when the tide of national feeling swept away the remnants of the opposition, which had hampered Scharnhorst in carrying through his plan for universal military service. He was able to place in the field an army as national as the earlier revolutionary armies of France. It proved its worth against the dynastic, cosmopolitan, and conscript force with which Napoleon had replaced the earlier levies of the Revolution.

The military triumphs of this new Prussian army made the year 1814 exceptionally favorable for fixing in permanence the work which had begun in the era of reform. It was fitting that the framing of such a specifically Prussian piece of legislation as a decree introducing universal military service bears not the name of Stein, the Imperial Knight, nor of Hardenberg or Scharnhorst, the Hanoverians, nor Gneisenau, the Saxon, nor Blücher the Mecklenburger, but of Hermann von Boyen of East Prussia—a product of the Frederickian army who still idealized its creator, a pupil of

<sup>11</sup> Lehmann, *Scharnhorst*, II. 87 ff.

Kant and Kraus at Königsberg, an associate and trusted lieutenant of Scharnhorst throughout the era of reform and regeneration—a member of the Tugendbund.<sup>12</sup> A happier choice could not have been made than the appointment on June 3, 1814, of von Boyen as Prussia's first real minister of war, entrusted with the task of securing for Prussia the first of Gneisenau's trilogy—the primacy in military fame.

The work which Boyen now undertook to complete was the work of the era of Stein and Scharnhorst. In the minister Hardenberg he had a sympathetic chief and in Gneisenau, Grolmann, and Natzmer, men of his own selection, able and like-minded coadjutors. The reorganization of the war department and the general staff and the appointment to the pivotal positions of men who had worked with Scharnhorst, brought into the officer corps a breath of initiative and freedom and cleared the way for the fundamental reorganization of the army itself.

Boyen had drafted his main ideas on the new army by the end of July and a memoir prepared by him and Grolmann dated August 24, 1814, embodies the essentials of the new law.<sup>13</sup> It was a remarkably tactful presentation of the new in the guise of the old, a skillful concealment of the new burdens in the forms of concessions or of already accepted facts. Desirable but untimely features were postponed until the essential points of the standing army and the *Landwehr* were secured by royal approval. The ministry, and it included men who had uttered many misgivings at the calling of the masses to arms in the preceding year, approved the memoir unanimously, without once raising the arguments so frequently heard from the opponents of Scharnhorst's ideas between 1807 and 1810. Boyen had counted and counted rightly that the time for action was while the needs and the deeds of the citizen army of 1813 were fresh in all minds. To the king he could urge the importance of taking a step for national defense before he left to meet his fellow-sovereigns and allies at the Congress of Vienna. The clear and logical plan with its manifold advantages as presented by Boyen gave Frederick William III. no chance to hesitate or postpone for fear of a revolutionary army. The law for universal military service was proclaimed on September 3, 1814.

Boyen's law opens, as did Scharnhorst's draft, with the words of Frederick William I., "Every citizen is bound to defend his

<sup>12</sup> Meinecke, *Boyen*, vol. I., and Boyen's *Erinnerungen*. The first volume of Meinecke's biography represents the highest type of such studies. Cf., e. g., pp. 80–89 for a penetrating analysis of Boyen's relation to Kant's teachings.

<sup>13</sup> Meinecke, *Boyen*, I., appendix 3, pp. 417 ff.

Fatherland."<sup>14</sup> The obligation rested upon all after the twentieth year. Five years were to be passed in the standing army—three of these in active service and two as reservists on leave. Then came seven years in the first call of the *Landwehr* with the obligation to serve abroad as well as at home, to participate in occasional reviews and drills on set days, and once annually to participate with the regular army in larger manoeuvres. The second summons of the *Landwehr* filled out seven years more with occasional drills, the obligation to do garrison duty in war, and the possibility of service abroad in need. After these nineteen years they were to hold themselves ready for service in the *Landsturm*, which included all between the ages of seventeen and fifty who were in any way able to bear arms. Its uses were purely defensive. The citizens who could show a certain degree of education and could furnish their own arms and uniforms served only one year with the colors and then generally in special troops (*Jäger und Schützen*) followed by two years as reservists and had a prior right to officers' places in the *Landwehr*. The standing army was to form the core of this army, thus preserving in the new national army the best proved product of the old régime.

The historical importance of Boyen's law can escape no thinking mind to-day. The other two military-political crises in Prussian history, the Thirty Years' War and the wars against Louis XIV., had been followed by the reorganization of the Prussian army and state. The Napoleonic period was now closed in the same way. Universal military service and the law which embodied it made a new citizenship and was in a truly Prussian-Hohenzollern sense a constitution which was to knit together the areas called Prussian after 1815. It was such a constitution as might be proclaimed, even by one of the weakest of a dynasty, which had been raised on the shields of warriors in a state whose martial past sanctified military service above ballots and party loyalty. Through it Prussia was prepared to enter on its twofold task of becoming a constitutional state and of unifying Germany. Much of the history of the nineteenth century is occupied with the establishment of nationality. None is more important than that in Germany, made possible by the development of the Prussian army as Scharnhorst and Boyen conceived it. Since 1870 every great power of Europe, except England, has adopted the Prussian universal military service. Such legislations and the

<sup>14</sup> Treitschke, *Geschichte Deutschlands im Neunzehnten Jahrhundert*, I. 587–594, 724, 735, is the only general account readily available. Source material for the details in *Beihefte zum Militair-Wochenblatt*, October, 1854, and December, 1862.

armies created by it, has then necessarily conditioned every other piece of legislation in every one of these states. It has influenced international policies and finally it has celebrated its greatest triumph by becoming a philosophy of political life.<sup>15</sup>

Is it too much for the historian looking back over the century to say that it is the most important statute of the nineteenth century, and that that century began on September 3, 1814? It may be left for future historians to say whether that historical century did not end just a hundred years later when in the first weeks of September, 1914, the German army was rolled back from the heights of the Marne.

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<sup>15</sup> For the most extensive argument for the benefits of Prussian universal military service see the article on "Conscription" by Colonel F. N. Maude, the English military critic, in the eleventh edition of the *Encyclopedia Britannica*.